REMARKS

This application has been reviewed in light of the Office Action dated August 29, 2007. Claims 36-41 are presented for examination, of which Claim 36 is in independent form, and has been amended to define still more clearly what Applicant regards as his invention. Favorable reconsideration is respectfully requested.

In the outstanding Office Action, Claims 36-39 and 41 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,440,632 (Bacon et al.), and Claim 40 was rejected under 35 U.S.C. § 103(a) as being obvious from *Bacon* in view of U.S. Patent 6,009,274 (Fletcher et al.). In addition, Claims 36, 38 and 40 were rejected for obviousness-type double patenting, over Claims 1-3 of U.S. Patent 6,728,956 (Ono).

Independent Claim 36 is directed to an information processing apparatus operating on the basis of a program stored in program storage means. The claimed apparatus comprises receiving means for receiving broadcast waves and an update program which are transmitted from outside, and display control means for displaying an image in accordance with the received broadcast waves on a screen, on the basis of the stored program. Update means update the program stored in the program storage means with the update program received by the receiving means, and inhibition means inhibit the display control means from displaying the image in accordance with the received broadcast waves on the screen while the update means is updating the program.

Among other notable features of the apparatus of Claim 36, thus, is the provision of inhibition means that, while the program is being updated, inhibit display of the image in accordance with the received broadcast waves on the screen.

Bacon relates to a system in which a subscriber terminal 40, for example (see Fig. 1) supplies RF output to a television receiver. The software in terminal 40 may need to be updated at times (col. 11, lines 9-20), and provision is made for updating. As the Examiner notes, when new software is in process of being downloaded, a message indicating this fact is displayed (col. 14, lines 5-7). As *Bacon* states, however, this message "is displayed in the LEDs of the subscriber terminal 40" (*ibid.*; see element 120 in Fig. 2), not on the television screen (which is used to provide the actual video display that the subscriber wants to watch). Thus, the displaying of this message does not, itself, interfere in any way with the display of the image (the content being downlinked from the satellite).

In the *Bacon* apparatus, the signal being received from the downlink for display to the subscriber must be descrambled and demodulated, and the processing necessary for this is performed by various elements of the terminal, under control of the microprocessor 128 (col. 6, line 51, through col. 7, line 39). If the downloading of new control software renders the microprocessor 128 unavailable to perform other tasks, then as indicated in col. 16 the image (the content) cannot be viewed by the subscriber during the downloading of the new control software. Applicant submits, however, that nothing has been found in Bacon that would suggest in any way that this unavailability of the display of the content during downloading of new control software is the result of action by microprocessor 128, or any other element in the *Bacon* apparatus, inhibiting the display. Applicant points out that Claim 36 does not merely recite that display of the image becomes impossible, but recites an actual element, the inhibition means, that perform inhibition. No suggestion of any such element is found in *Bacon*.

Accordingly, Applicant submits that Claim 36 is allowable over *Bacon*.

Applicant respectfully traverses the double-patenting rejection. As the Examiner correctly notes, the claims on which this rejection are based do not have the inhibition means recited in Claim 36. While the Office Action presents an analysis from which the Examiner concludes that addition of such inhibition means would have been obvious, Applicant disagrees. The analysis in the Office Action is based on the premise that "the display control means displays information denoting 'updating' on the display screen during updating and the information processing apparatus must display non-update related information when updating is not in progress." The need to display "information denoting 'updating'" does not, however, imply that non-update related information cannot also be displayed. The use of split-screen and windowing techniques is well known, and would permit both types of information to be displayed simultaneously. (Applicant is not claiming the use of such techniques, nor are such techniques a part of the present invention as it is now being claimed; rather, Applicant is merely observing that the existence, and wide-spread knowledge, of such techniques makes the premise fo the Office Action's analysis incorrect.) Thus, Applicant does not agree that the recited inhibition means would have been obvious, and withdrawal of the double-patenting rejection is respectfully requested.

A review of the other art of record, including *Fletcher*, has failed to reveal anything which, in Applicants opinion, would remedy the deficiencies of the art discussed above, as references against independent Claim 36, and that claim is therefore believed patentable over the art of record.

The other claims in this application are each dependent from Claim 36, and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

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